

000363

REQUEST FOR COUNCIL ACTION

CITY OF SAN DIEGO

1. CERTIFICATE NUMBER
(FOR AUDITOR'S USE ONLY)

51

TO:

CITY ATTORNEY

2. FROM (ORIGINATING DEPARTMENT):

Development Services Department

3. DATE:

May 19, 2008

07/08

4. SUBJECT:

Linda Vista Road Center - Project No. 108435

5. PRIMARY CONTACT (NAME, PHONE, & MAIL STA.)

Jeannette Temple, x77908, MS-501

6. SECONDARY CONTACT (NAME, PHONE, & MAIL STA.)

Mike Westlake, x65220, MS-501

7. CHECK BOX IF REPORT TO COUNCIL IS ATTACHED



8. COMPLETE FOR ACCOUNTING PURPOSES

FUND					9. ADDITIONAL INFORMATION / ESTIMATED COST:
DEPT.	1300				A deposit has been collected from the applicant to cover all costs associated with processing the proposed project.
ORGANIZATION	1671				
OBJECT ACCOUNT	4022				
JOB ORDER	42-6706				
C.I.P. NUMBER					
AMOUNT					

10. ROUTING AND APPROVALS

ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED	ROUTE (#)	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
1	ORIG. DEPT	KELLY BROUGHTON	5/21/08	8	DEPUTY CHIEF	WILLIAM ANDERSON	5-22-08
2	EAS	KENNETH TEMPLE	5/20/08	9	COO		
3				10	CITY ATTORNEY	ANDREA DIXON	
4	LIAISON OFFICE			11	ORIG. DEPT	MIKE WESTLAKE	5/21/08
5				DOCKET COORD: _____ COUNCIL LIAISON _____			
6				<input checked="" type="checkbox"/> COUNCIL PRESIDENT <input type="checkbox"/> SPOB <input type="checkbox"/> CONSENT <input type="checkbox"/> ADOPTION			
7				<input type="checkbox"/> REFER TO: _____ COUNCIL DATE: _____			

11. PREPARATION OF:

☒ RESOLUTIONS☒ ORDINANCE(S)☐ AGREEMENT(S)☐ DEED(S)

1. Resolution certifying that the information in Mitigated Negative Declaration (MND) No. 108435 has been completed in compliance with the California Environmental Quality Act (CEQA) and State CEQA Guidelines, and that the MND reflects the independent judgement of the City of San Diego as Lead Agency. Stating for the record that the final MND has been reviewed and considered prior to approving the project. Adopting the Mitigation, Monitoring and Reporting Program.
2. Ordinance rezoning the project site from CN-1-2 to CC-1-1, Rezone No. 361571.
3. Resolution approving Planned Development Permit No. 532247.
4. Resolution Approving Easement Vacation No. 532246.

11A. STAFF RECOMMENDATIONS:

INTRODUCE THE ORDINANCE AND ADOPT THE RESOLUTIONS

12. SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION.)

COUNCIL DISTRICT(S): 6

COMMUNITY AREA(S): LINDA VISTA

ENVIRONMENTAL IMPACT: The City of San Diego as Lead Agency under CEQA has reviewed and considered a Mitigation Negative Declaration, No. 108435, dated April 2, 2008, and the Mitigation, Monitoring and Reporting Program, covering this activity. 000364

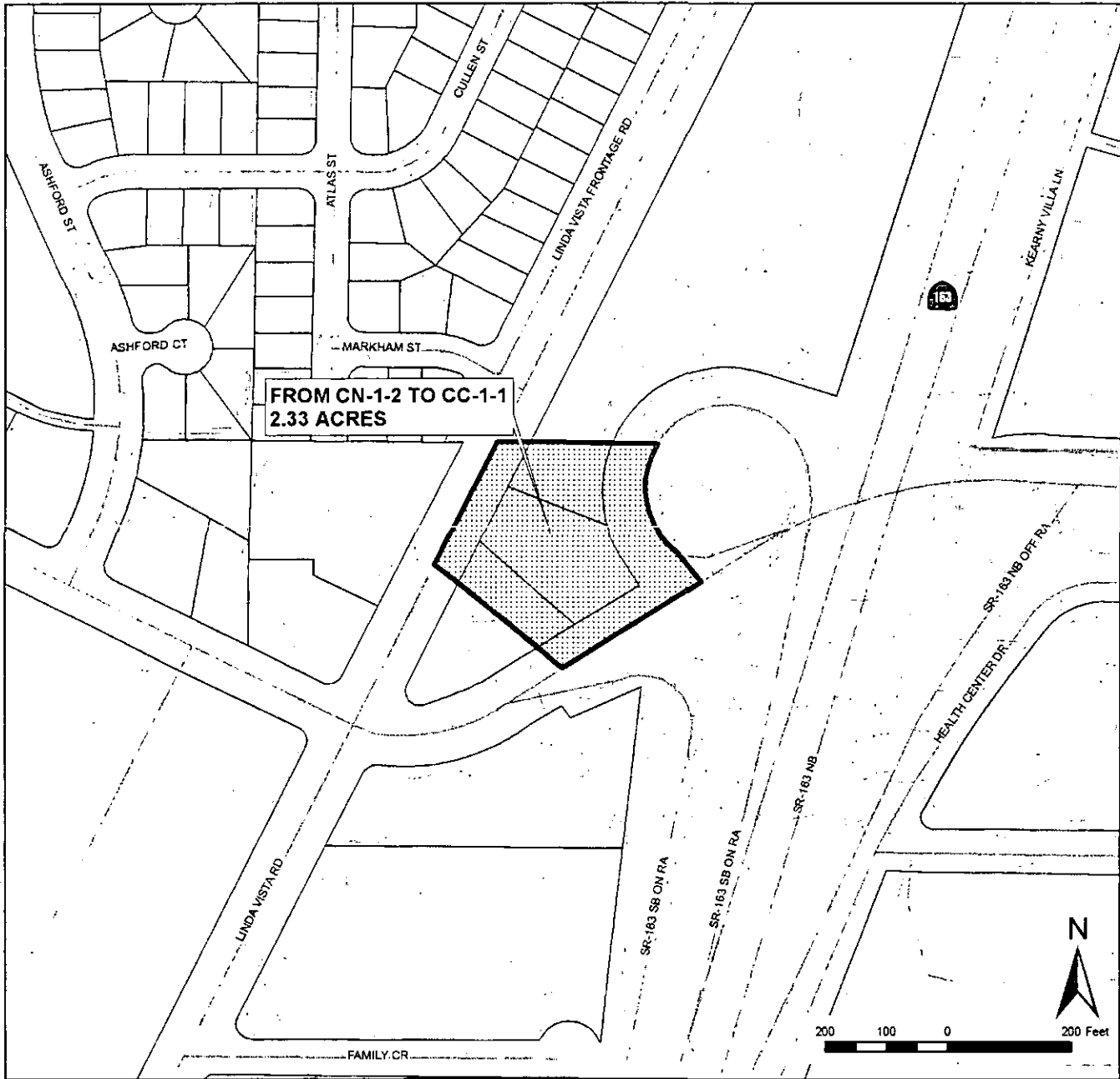
HOUSING IMPACT: The proposed project to develop an 8,046 square foot retail development on a 60,134 square foot site is located on a site identified as Commercial in the Linda Vista Community Plan. In addition, the proposal includes a rezone from CN-1-2 to CC-1-1. Both the existing and proposed zones allow for development which may include a residential component. Although not a part of the proposed project, the proposed rezone would allow for live/work quarters as a limited use, whereas, under the existing zone, live/work quarters is not an allowed use. No residential units are proposed as part of this project.

OTHER ISSUES: 10 BUSINESS DAY, NOTICED PUBLIC HEARING; RETURN COPIES OF ALL RESOLUTIONS AND ORDINANCE TO JEANNETTE TEMPLE, MS-501; COUNCIL ACTION REQUIRES A MAJORITY VOTE

000365

CITY OF SAN DIEGO • CITY PLANNING AND COMMUNITY INVESTMENT

PROPOSED REZONING



LOT 3 ARTILLERY SQAURE #2, MAP 6266

CASE NO. 108435

ORDINANCE NO. _____
 EFF. DATE ORD. _____
 ZONING SUBJ. TO _____
 BEFORE DATE _____
 EFF. DATE ZONING _____
 MAP NAME AND NO. _____

REQUEST CC-1-1
 PLANNING COMM. RECOMMENDATION 4-1-2
 CITY COUNCIL ACTION

DEVELOPMENT SERVICES DEPARTMENT
 MANAGER

B- 4255

APN: 427-082-01,02,03

(232-1719) 11-16-07 [d]

000367

CITY ATTORNEY DIGEST

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

EFFECTIVE DATE _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO CHANGING 2.33 ACRES LOCATED AT 7625-7631 LINDA VISTA ROAD, WITHIN THE LINDA VISTA COMMUNITY PLAN AREA, IN THE CITY OF SAN DIEGO, CALIFORNIA, FROM THE CN-1-2 ZONE INTO THE CC-1-1 ZONE, AS DEFINED BY SAN DIEGO MUNICIPAL CODE SECTION 131.0507, AND REPEALING RESOLUTION NO. R-301263, ADOPTED FEBRUARY 28, 2006, OF RESOLUTIONS OF THE CITY OF SAN DIEGO INsofar AS THE SAME CONFLICTS HERewith.

This ordinance approves the rezoning of 2.33 acres from the CN-1-1 zone to the CC-1-1 zone, in connection with property located at 7625-7631 Linda Vista Road, in the Linda Vista Community Plan, in the City of San Diego, California.

This ordinance contains a notice that a full reading of this ordinance is dispensed with prior to its final passage, since a written or printed copy will be available to the City Council and the public a day prior to its final passage.

This ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

A complete copy of the Ordinance is available for inspection in the Office of the City Clerk of the City of San Diego, 2nd Floor, City Administration Building, 202 C Street, San Diego, CA 92101.

ACD:pev
05/27/08
Or.Dept:DSD
O-2008-158
ZONING Rezone Digest 11-01-04

000369

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO CHANGING 2.33 ACRES LOCATED AT 7625-7631 LINDA VISTA ROAD, WITHIN THE LINDA VISTA COMMUNITY PLAN AREA, IN THE CITY OF SAN DIEGO, CALIFORNIA, FROM THE CN-1-2 ZONE INTO THE CC-1-1 ZONE, AS DEFINED BY SAN DIEGO MUNICIPAL CODE SECTION 131.0507, AND REPEALING RESOLUTION NO. R-301263, ADOPTED FEBRUARY 28, 2006, OF RESOLUTIONS OF THE CITY OF SAN DIEGO INsofar AS THE SAME CONFLICTS HERewith.

WHEREAS, under Charter section 280(a)(2) this ordinance is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

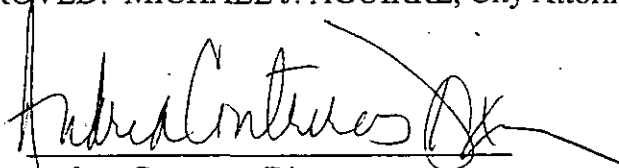
Section 1. That 2.33 acres located at 7625-7631 Linda Vista Road, and legally described as Lot 3, Artillery Square Unit 2, Map No. 6266, in the Linda Vista Community Plan area, in the City of San Diego, California, as shown on Zone Map Drawing No. B-4255, filed in the office of the City Clerk as Document No. OO-_____, are rezoned from the CN-1-2 zone into the CC-1-1 zone, as the zone is described and defined by San Diego Municipal Code section 131.0507. This action amends the Official Zoning Map adopted by Resolution No. R-301263 adopted February 28, 2006.

Section 2. That a full reading of this ordinance is dispensed with prior to its final passage, a written or printed copy having been available to the City Council and the public a day prior to its final passage.

Section 3. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By


Andrea Contreras Dixon
Deputy City Attorney

ACD:pev
05/27/08
Or.Dept:DSD
O-2008-158
MMS #6304

09 MAY 28 AM 2 52

000371

RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

MITIGATED NEGATIVE DECLARATION NO. 108435 FOR
THE LINDA VISTA ROAD CENTER PROJECT.

WHEREAS, on August 6, 2007, GTF Properties submitted an application to the City of San Diego for a rezone, easement vacation and planned development permit for the Linda Vista Road Center project; and

WHEREAS, the matter was set for a public hearing to be conducted by the Council of the City of San Diego; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the issue was heard by the City Council on _____; and

WHEREAS, the City Council considered the issues discussed in Mitigated Negative Declaration No. 108435; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it is certified that Mitigated Negative Declaration LDR No. 108435, on file in the office of the City Clerk, has been completed in compliance with the California Environmental Quality Act of 1970 (California Public Resources Code section 21000 et seq.), as amended, and the State guidelines thereto (California Code of Regulations section 15000 et seq.), that the declaration reflects the independent judgment of the City of San Diego as Lead Agency and that the information

000372

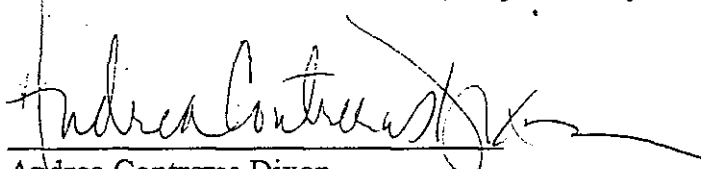
contained in the report, together with any comments received during the public review process, has been reviewed and considered by this Council in connection with the approval of a rezone, easement vacation and planned development permit for the Linda Vista Road Center project.

BE IT FURTHER RESOLVED, that the City Council finds that project revisions now mitigate potentially significant effects on the environment previously identified in the Initial Study and therefore, that the Mitigated Negative Declaration, a copy of which is on file in the office of the City Clerk and incorporated by reference, is approved.

BE IT FURTHER RESOLVED, that pursuant to California Public Resources Code section 21081.6, the City Council adopts the Mitigation Monitoring and Reporting Program, or alterations to implement the changes to the project as required by this body in order to mitigate or avoid significant effects on the environment, a copy of which is attached hereto, as Exhibit A, and incorporated herein by reference.

BE IT FURTHER RESOLVED, that the City Clerk is directed to file a Notice of Determination [NOD] with the Clerk of the Board of Supervisors for the County of San Diego regarding the above project.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
Andrea Contreras Dixon
Deputy City Attorney

ACD:pev
05/27/08
Or.Dept:DSD
R-2008-1070
ENVIRONMENTAL - MND 11-01-04

MITIGATION MONITORING AND REPORTING PROGRAM**Planned Development Permit, Easement Vacation, Rezone****MND NO. 108435**

This Mitigation Monitoring and Reporting Program is designed to ensure compliance with Public Resources Code Section 21081.6 during implementation of mitigation measures. This program identifies at a minimum: the department responsible for the monitoring, what is to be monitored, how the monitoring shall be accomplished, the monitoring and reporting schedule, and completion requirements. A record of the Mitigation Monitoring and Reporting Program will be maintained at the offices of the Land Development Review Division, 1222 First Avenue, Fifth Floor, San Diego, CA 92101. All mitigation measures contained in the Mitigated Negative Declaration (Project No. 108435) shall be made conditions of the Planned Development Permit, Easement Vacation and Rezone as may be further described below.

General measures which must be completed prior to any authorization to proceed:

The Assistant Deputy Director (ADD) of the City's Entitlement Division shall verify that the following statements are shown on the grading and/ or construction plans as notes under the heading "Environmental Requirements":

1. The Linda Vista Road Center Project is subject to a Mitigation, Monitoring, and Reporting Program (MMRP) and shall conform to the mitigation conditions in Mitigated Negative Declaration No. 108435.
2. Prior to any site disturbance (excluding survey and utility mark outs), the owner/permittee shall schedule a pre-construction meeting to ensure implementation of the MMRP. The meeting shall include the City Resident Engineer and the City's Mitigation Monitoring Coordination (MMC) section.

Transportation

3. Prior to the issuance of the first building permit, the applicant shall provide a fair-share contribution of 15.8 percent of the cost of the construction of a raised center median on Linda Vista Road from Markham Drive to Baltic Street, satisfactory to the City Engineer. The fair share contribution shall be deposited into a separate interest earning account.

The above mitigation monitoring and reporting program will require additional fees and/or deposits to be collected prior to the issuance of building permits, certificates of occupancy and/or final maps to ensure the successful completion of the monitoring program.

RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

PLANNED DEVELOPMENT PERMIT NO. 532247 – LINDA
VISTA ROAD CENTER PROJECT.

WHEREAS, GTF Properties, a California Limited Partnership, Owner/Permittee, filed an application with the City of San Diego for a planned development permit to construct an 8,046 square foot retail development on a 60,134 square foot site known as the Linda Vista Road Center project, located at 7625-7631 Linda Vista Road, and legally described as Lot 3, Artillery Square Unit No. 2, Map No. 6266, in the Linda Vista Community Plan area, in the CN-1-2 zone (previously referred to as the CN zone) which is proposed to be rezoned to the CC-1-1 zone and the Residential Tandem Parking Overlay zone; and

WHEREAS, on May 8, 2008, the Planning Commission of the City of San Diego considered Planned Development Permit [PDP] No. 532247, and pursuant to Resolution No. 4402-PC voted to recommend approval of the Permit; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

000376

WHEREAS, the matter was set for public hearing on _____,

testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Planned Development Permit No. 532247:

**A. PLANNED DEVELOPMENT PERMIT – SAN DIEGO MUNICIPAL CODE
[SDMC] SECTION 126.0604**

1. **The proposed development will not adversely affect the applicable land use plan.** The proposed project site is located on three contiguous lots addressed as 7625-7631 Linda Vista Road. The project would construct a new, 2-building, single-story retail/restaurant center of approximately 5,775 square feet. The existing retail store will remain (2,272 square feet), and the 60,134 square foot site comprising the three lots will be re-landscaped, including the convenience store parcel.

The site is located in the Linda Vista Community Plan area and is designated for Neighborhood Commercial. The project, with the proposed site design and pedestrian/neighborhood orientation, is consistent with this designation.

To accommodate a drive-through lane, the Project requires a rezone from CN-1-2 to CC-1-1. The CC zones allow a mix of community-serving commercial uses and residential uses, providing a range of commercial development patterns, from pedestrian friendly commercial streets to shopping centers and auto-oriented strip commercial streets. The CC-1-1 zone is intended to accommodate development with strip commercial characteristics. The proposed CC1-1 zoning has characteristics similar to those in the existing CN-1-2 zone. This project proposes to limit operations of the businesses to between 6AM and midnight, including the proposed drive-up lane. Business hours in the CN zone are also limited to between 6AM and midnight.

The proposed new buildings will be situated on the site to allow for pedestrian as well as automobile-oriented uses, in substantial conformance with the Land Development Code.

The site is governed by the policies and guidelines of the General Plan, the Linda Vista Community Plan and the development regulations of the CC-1-1 zone. The proposed Project is in compliance with all applicable policies, guidelines and regulations in effect for the re-zoned site.

2. **The proposed development will not be detrimental to the public health, safety, and welfare.** The proposed project, to develop a 5,774 square foot retail development on a 60,134 square foot site, would result in a modest development of approximately 8,046 square feet. The proposed project includes parking and landscaping. The placement the buildings allow

good visibility for the public and for passing police units. The site will be designed to accommodate fire department vehicles.

The project will have forty-five surface parking spaces, or approximately 5.4 spaces per 1,000 square feet of floor area. Two motorcycle and two bicycle parking spaces will also be provided. Landscaping and irrigation will be installed throughout the site, in compliance with the development regulations.

The permit prepared for this development includes various conditions and referenced Exhibits of approval relevant to achieving project compliance with the Regulations and applicable Ordinance provisions of the City's Municipal Code in effect for this site; and that such conditions have been determined as necessary to avoid adverse impacts upon the health, safety, and general public welfare. These conditions (and referenced Exhibits) include limitations upon the extent and amount of site grading activities, minimum parking and landscaping requirements, and required public improvements, and hours of operation.

3. The proposed development will comply with the regulations of the Land Development Code. The proposed project, to develop an 8,046 square foot retail development on a 60,134 square foot site, will be in compliance with most of the applicable regulations of the CC-1-1 zone, including height, floor area ratio for the entire premises, on-site parking spaces and landscape regulations. The Planned Development Permit process allows for certain deviations from the Land Development Code. All of the requested deviations can be supported based on the quality of the project design and development constraints of the site. The site has an irregular shape with two frontages (Linda Vista Road and Mesa College Drive), but Mesa College Drive is above the elevation of the site and auto/pedestrian access from Mesa College Drive is infeasible. Visibility of the site from Mesa College Drive is limited. The proposed new buildings will be located to allow both a pedestrian orientation and automobile access from Linda Vista Road as dictated in the CC-1-1 zone. The completed project will substantially comply with the applicable regulations, and with the Linda Vista Community Plan.

4. The proposed development, when considered as a whole, will be beneficial to the community. The proposed project, to develop an 8,046 square foot retail development on a 60,134 square foot site will be beneficial to the community. A long-time vacant, undeveloped parcel on the site will be improved along with the proposed improvements to the remainder of subject property. The project would develop a retail/restaurant center with a neighborhood serving scale. Landscaping will be provided in accordance with the Land Development Code. While the project proposes to deviate from certain requirements of the Land Development Code, the resulting project will provide a fresh, new source of pedestrian and automobile-oriented, community-serving retail services.

5. Any proposed deviations pursuant to Section 126.0602(b)(1) are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the applicable zone. The proposed project deviates from the following development regulations:

The project exceeds the maximum front setback along Mesa College Drive (Table 131-05E)

The site has two street frontages: Linda Vista Road and Mesa College Drive. A portion of one of the two proposed buildings lies approximately 120 feet beyond the property line at Mesa College Drive (where 100 feet maximum is required). While Mesa College Drive is considered to be one of the two "frontage" exposures to the site, Mesa College Drive is approximately 10 to 15 feet above the grade on site. Mesa College Drive at that location is a major connector street over State Highway 163 and is not conducive to automobile or pedestrian access to the site. The proposed buildings are within the 100 foot maximum front yard setback along Linda Vista Road. There is no minimum front yard setback.

The project exceeds the maximum lot depth of 150 feet (Table 131-05E).

The lot's irregular shape results in a lot depth of approximately 260 feet at the greatest distance. The 'side yard' dimensions are approximately 168 and 159 feet, respectively, where a maximum of 150 feet is required. A depth limited to 150 feet would greatly curtail the development quality of the site, to the extent that a project of the nature and character of that proposed would be infeasible.

The project deviates from the building articulation requirement for the frontage facing Mesa College Drive (SDMC section 131.0554)

Each of the two proposed building façades facing Mesa College Drive have a length of 60 linear feet. Articulation will be provided on each building frontage facing Mesa College Drive as follows: four planes consisting of two with a separation of three inches, and two with a separation of 8 inches. Under SDMC section 131.0554 for a building façade more than 50 feet but less than 100 feet, six planes are required, consisting of two with a minimum separation of three inches, two with a minimum separation of eight inches and two with a minimum separation of three feet. The Building frontages facing Mesa College Drive do not contain storefronts, and openings are limited to doors for service access. Mesa College Drive is a major connector street which is elevated 10 to 15 feet above the grade at the site and is not conducive to automobile or pedestrian access or exposure. The Linda Vista Road frontages of the proposed project comply with the building articulation requirement.

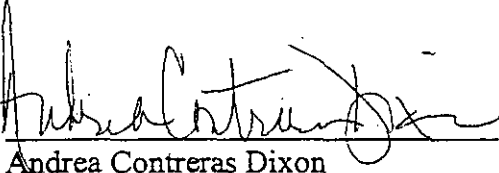
The above deviations are appropriate for this location and will result in a more desirable project than would be achieved if designed in strict conformance with the development regulations of the CC-1-1 zone.

The above findings are supported by the minutes, maps and exhibits, all of which are incorporated herein by this reference.

000379

BE IT FURTHER RESOLVED, that Planned Development Permit No. 532247 is granted to GTF Properties, a California Limited Partnership, Owner/Permittee, under the terms and conditions set forth in the attached permit which is made a part of this resolution.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By 
Andrea Contreras Dixon
Deputy City Attorney

ACD:pev
05/27/08
Or.Dept:DSD
R-2008-1085
MMS #6304

000381

RECORDING REQUESTED BY
CITY OF SAN DIEGO
DEVELOPMENT SERVICES DEPARTMENT
PERMIT INTAKE, MAIL STATION 501

WHEN RECORDED MAIL TO
CITY CLERK
MAIL STATION 2A

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER 426706

PLANNED DEVELOPMENT PERMIT NO. 532247
LINDA VISTA ROAD CENTER [MMRP] - PROJECT NO. 108435

CITY COUNCIL

This Planned Development Permit No. 532247 is granted by the City Council of the City of San Diego to GTF Properties, a California Limited Partnership, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] section 126.0604. The 1.38-acre site is located at 7625-7631 Linda Vista Road in the CC-1-1 zone (rezoned from CN-1-2) and Residential Tandem Parking Overlay Zone of the Linda Vista Community Plan area. The project site is legally described as Lot 3, Artillery Square Unit No. 2, Map No. 6266.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to develop an 8,046 square foot retail/food use development with drive-through lane on a 60,134 square foot site, described and identified by size, dimension, quantity, type, and location on the approved exhibits [Exhibit "A"] dated _____, on file in the Development Services Department.

The project or facility shall include:

- a. The construction of 5,774 square feet in two new retail buildings, including a drive-through lane, and an existing 2,272 square foot retail building to remain;
- b. Landscaping (planting, irrigation and landscape related improvements);
- c. Off-street parking facilities; and
- d. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

STANDARD REQUIREMENTS:

1. This permit must be utilized within thirty-six months after the date on which all rights of appeal have expired. Failure to utilize and maintain utilization of this permit as described in the SDMC will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in affect at the time the extension is considered by the appropriate decision maker.
2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
 - a. The Owner/Permittee signs and returns the Permit to the Development Services Department; and
 - b. The Permit is recorded in the Office of the San Diego County Recorder.
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the City Manager.
4. This Permit is a covenant running with the subject property and shall be binding upon the Owner/Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
5. The continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Owner/Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. The Owner/Permittee shall secure all necessary building permits. The Owner/Permittee is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
8. Construction plans shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A." No changes, modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.
9. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the

ment of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/ Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

10. The applicant shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, including, but not limited to, any to any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify applicant of any claim, action, or proceeding and, if the City should fail to cooperate fully in the defense, the applicant shall not thereafter be responsible to defend, indemnify, and hold harmless the City or its agents, officers, and employees. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, applicant shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and applicant regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the applicant shall not be required to pay or perform any settlement unless such settlement is approved by applicant.

11. This Permit may be developed in phases. Each phase shall be constructed prior to sale or lease to individual owners or tenants to ensure that all development is consistent with the conditions and exhibits approved for each respective phase (per the approved Exhibit "A").

ENVIRONMENTAL/MITIGATION REQUIREMENTS:

12. Mitigation requirements are tied to the environmental document, specifically the Mitigation, Monitoring, and Reporting Program [MMRP]. These MMRP conditions are incorporated into the permit by reference or authorization for the project.

13. The mitigation measures specified in the MMRP, and outlined in Mitigated Negative Declaration No. 108435 shall be noted on the construction plans and

specifications under the heading ENVIRONMENTAL/MITIGATION REQUIREMENTS.

14. The Owner/Permittee shall comply with the MMRP as specified in Mitigated Negative Declaration No. 108435, satisfactory to the Development Services Department and the City Engineer. All mitigation measures as specifically outlined in the MMRP shall be implemented for the following issue area: Transportation.

15. Prior to issuance of any construction permit, the Owner/Permittee shall pay the Long Term Monitoring Fee in accordance with the Development Services Fee Schedule to cover the City's costs associated with implementation of permit compliance monitoring.

ENGINEERING REQUIREMENTS:

16. Prior to the issuance of any construction permits, the applicant shall incorporate any construction Best Management Practices [BMP's] necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.

17. Prior to the issuance of any construction permits, the applicant shall incorporate and show the type and location of all post-construction BMP's on the final construction drawings, in accordance with the approved Water Quality Technical Report.

18. The drainage system proposed for this development is private and subject to approval by the City Engineer.

19. Development of this project shall comply with all requirements of State Water Resources Control Board [SWRCB] Order No. 99-08 DWQ and the Municipal Storm Water Permit, Order No. 2001-01 (NPDES General Permit No. CAS000002 and CAS0108758), Waste Discharge Requirements for Discharges of Storm Water Runoff Associated With Construction Activity. In accordance with said permit, a Storm Water Pollution Prevention Plan [SWPPP] and a Monitoring Program Plan shall be implemented concurrently with the commencement of grading activities, and a Notice of Intent [NOI] shall be filed with the SWRCB.

20. Prior to the issuance of any building permits, the applicant shall enter into a Maintenance Agreement for the ongoing permanent BMP maintenance.

21. Prior to the issuance of any building permits, the applicant shall assure, by permit and bond, the closure of the two existing driveways with replacement to full-height curb, gutter and sidewalk, the reconstruction of the northernmost driveway to current standards, the installation of a new 30-foot driveway, the replacement of any damaged portions of the sidewalk and the installation of three D-25 curb outlets, adjacent to the site on Linda Vista Road, all satisfactory to the City Engineer.

22. Prior to the issuance of any building permits, the applicant shall obtain an Encroachment Maintenance and Removal Agreement, for three D-25 curb outlets and for landscaping in Linda Vista Road, all satisfactory to the City Engineer.
23. Prior to the issuance of any building permits, the applicant shall obtain a grading permit for the grading proposed for this project. All grading shall conform to requirements in accordance with the City of San Diego Municipal Code in a manner satisfactory to the City Engineer.
24. Prior to the issuance of any building permits, the applicant shall vacate the slope easement along Mesa College Drive and dedicate right-of-way for Linda Vista Road, satisfactory to the City Engineer.

LANDSCAPE REQUIREMENTS:

25. Prior to issuance of any construction permits for public right-of-way improvements, the Permittee or Subsequent Owner shall submit complete landscape construction documents for right-of-way improvements to the City Manager for approval. Improvement plans shall take into account a 40 sq-ft area around each tree which is unencumbered by utilities. Driveways, utilities, drains, water and sewer laterals shall be designed so as not to prohibit the placement of street trees.
26. Prior to issuance of any construction permits for buildings, the Permittee or Subsequent Owner shall submit complete landscape and irrigation construction documents consistent with the Land Development Manual Landscape Standards to the City Manager for approval. The construction documents shall be in substantial conformance with Exhibit "A," Landscape Development Plan. Construction plans shall take into account a 40 sq-ft area around each tree.
27. Prior to issuance of any Certificate of Occupancy, it shall be the responsibility of the Permittee or Subsequent Owner to install all required landscape and obtain all required landscape inspections. A "No Fee" Street Tree Permit shall be obtained for the installation, establishment, and on-going maintenance of all street trees.
28. The Permittee or Subsequent Owner shall maintain all required landscape in a disease, weed, and litter free condition at all times. Severe pruning or "topping" of trees is not permitted. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.
29. The Permittee or Subsequent Owner shall be responsible for the maintenance of all landscape improvements in the right-of-way consistent with the Land Development Manual Landscape Standards unless long-term maintenance of said landscaping will be the responsibility of a Landscape Maintenance District or other approved entity. In this case, a Landscape Maintenance Agreement shall be submitted for review by a Landscape Planner.
30. If any required landscape (including existing or new plantings, hardscape, landscape features, etc.) indicated on the approved construction document plans is

damaged or removed during demolition or construction, the Permittee or Subsequent Owner is responsible to repair and/or replace any landscape in kind and equivalent size per the approved documents to the satisfaction of the City Manager within thirty days of damage or prior to a Certificate of Occupancy.

PLANNING/DESIGN REQUIREMENTS:

31. No fewer than forty-five off-street parking spaces (including two accessible spaces of which one is van accessible), two bicycle spaces with racks, and two motorcycle spaces shall be permanently maintained on the property within the approximate location shown on the project's Exhibit "A." Further, all on-site parking stalls and aisle widths shall be in compliance with the requirements of the City's Land Development Code and shall not be converted and/or utilized for any other purpose unless otherwise authorized in writing by the City Manager.
32. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Owner/Permittee.
33. The hours of operation shall be limited from 6AM to 12AM daily.
34. The following deviations to development regulations are permitted for this development:
 - (a) The project exceeds the maximum front setback along Mesa College Drive.
 - (b) The project exceeds the maximum lot depth of 150 feet.
 - (c) The project does not comply with the building articulation requirements for the building facade along Mesa College Drive.
35. All signs associated with this development shall be consistent with sign criteria established by either the approved Exhibit "A" or Citywide sign regulations.
36. All private outdoor lighting shall be shaded and adjusted to fall on the same premises where such lights are located and in accordance with the applicable regulations in the SDMC.

TRANSPORTATION REQUIREMENTS:

37. Prior to the issuance of the first building permit, the applicant shall provide a fair-share contribution of 15.8 percent of the cost of construction of a raised center median on Linda Vista Road from Markham Drive to Baltic Street, satisfactory to the City Engineer. The fair share contribution shall be deposited to a separate interest earning account.

38. Prior to the issuance of the first building permit, the applicant shall assure by permit and bond the construction of a raised center median along Linda Vista Road extending from Mesa College Drive to Markham Drive, satisfactory to the City Engineer.

39. Prior to the issuance of the first building permit, the applicant shall dedicate a minimum of 3 feet along the property frontage along Linda Vista Road, to provide a minimum 14 feet curb to property line, satisfactory to the City Engineer.

WASTEWATER REQUIREMENTS:

40. All on-site wastewater systems shall be private.

41. All proposed private sewer facilities located within a single lot are to be designed to meet the requirements of the California Uniform Plumbing Code and will be reviewed as part of the building permit plan check.

42. All proposed public sewer facilities are to be designed and constructed in accordance with established criteria in the most current City of San Diego sewer design guide. Proposed facilities that do not meet the current standards shall be private or re-designed.

43. Sewer lateral connections shall be made in accordance with Table 2-6 Of the City of San Diego sewer design guide. Therefore lateral connection shall be through a "Y" fitting or saddle type connection away from the manhole further downstream.

44. No trees or shrubs exceeding three feet in height at maturity shall be installed within ten feet of any public sewer facilities.

WATER REQUIREMENTS:

45. Prior to the issuance of any building permits, the Owner/Permittee shall assure by permit and bond the design and construction of new water service(s) outside of any driveway, and the disconnection at the water main of all existing unused services adjacent to the site, in a manner satisfactory to the Water Department Director and the City Engineer.

46. Prior to the issuance of any building permits, the Owner/Permittee shall apply for a plumbing permit for the installation of appropriate private back flow prevention device(s) on each water service (domestic, fire, and irrigation), in a manner satisfactory to the Water Department Director, the City Engineer, and the Cross Connection Supervisor in the Customer Support Division of the Water Department.

47. Prior to the issuance of any certificates of occupancy, public water facilities necessary to serve the development, including services, shall be complete and operational in a manner satisfactory to the Water Department Director and the City Engineer.

48. The Owner/Permittee agrees to design and construct all proposed public water facilities, including services and meters, in accordance with established criteria in the

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most current edition of the City of San Diego Water Facility Design Guidelines and City regulations, standards and practices pertaining thereto. Proposed facilities that do not meet the current standards for construction, operation, maintenance and access, shall be private or modified at final engineering to comply with standards.

INFORMATION ONLY:

- Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.
- This development may be subject to impact fees at the time of construction permit issuance.

APPROVED by the City Council of the City of San Diego on _____
by Resolution No. R-_____.

000389

AUTHENTICATED BY THE CITY MANAGER

By _____

The undersigned Permittee, by execution hereof, agrees to each and every condition of this Permit and promises to perform each and every obligation of Permittee hereunder.

GTF PROPERTIES,
a California Limited Partnership
Owner/Permittee

By _____

By _____

**NOTE: Notary acknowledgments
must be attached per Civil Code
section 1180 et seq.**

PERMIT/OTHER - Permit Shell 11-01-04

RESOLUTION NUMBER R-_____

DATE OF FINAL PASSAGE _____

SLOPE EASEMENT VACATION FOR THE LINDA VISTA
ROAD CENTER PROJECT.

WHEREAS, California Streets and Highways Code 8300 et seq., and San Diego Municipal Code Section 125.1001 et seq. provide a procedure for the summary vacation of public service easements by City Council resolution where the easement to be vacated is no longer required; and

WHEREAS, the affected property owner has requested the vacation of the slope easement located on Mesa College Drive between Linda Vista Road and Highway 163 southbound on-ramp, to unencumber his property and facilitate development of the site as conditioned in approved Planned Development Permit No. 532247; and

WHEREAS, under Charter Section 280(a)(2), this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body, a public hearing was required by law implicating due process rights of individuals affected by the decision, and the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the matter was set for public hearing on _____, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; NOW, THEREFORE,

BE IT RESOLVED, Council of the City of San Diego finds that:

(a) There is no present or prospective public use for the easement, either for the facility or purpose for which it was originally acquired or for any other public use of a like nature that can be anticipated.

- (b) The public will benefit from the action through improved utilization of the land.
- (c) The vacation is consistent with the General Plan or an approved Community Plan.
- (d) The public facility or purpose for which the easement was originally acquired will not be detrimentally affected by this vacation.

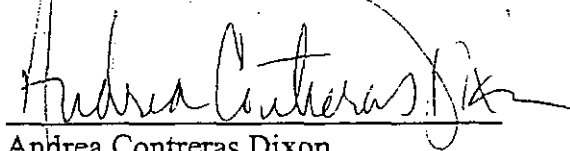
BE IT FURTHER RESOLVED, the Council of the City of San Diego finds:

1. That the slope easement located within Mesa College Drive between Linda Vista Road and Highway 163 southbound on-ramp in connection with Planned Development Permit No. 532247, as more particularly described in the legal description marked as Exhibit "A," and as shown on Drawing No. 20833-B, marked as Exhibit "B," and on file in the Office of the City Clerk as Document Nos. RR-_____, and RR-_____ which are by this reference incorporated herein and made a part hereof, is ordered vacated reserving therefrom general utility and public utility easements for utilities together with ingress and egress for that purpose.

2. That the City Clerk shall cause a certified copy of this Resolution, with attached Exhibits, attested by her under Seal, to be recorded in the Office of the County Recorder.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By



Andrea Contreras Dixon
Deputy City Attorney

ACD:pev
05/27/08
Or.Dept:DSD
R-2008-1078
MMS #6304

000393

EXHIBIT "A"

LEGAL DESCRIPTION

SLOPE EASEMENT VACATION WITH GENERAL UTILITY AND ACCESS EASEMENT RESERVED FROM SLOPE VACATION

PARCEL 'A'

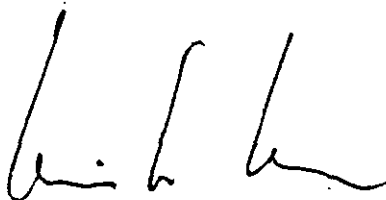
ALL THAT PORTION OF LOT 3 OF ARTILLERY SQUARE UNIT NO. 2, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA ACCORDING TO MAP THEREOF NO. 6266 FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THAT CERTAIN SLOPE EASEMENT GRANTED TO THE STATE OF CALIFORNIA PER DEED RECORDED NOVEMBER 13, 1967 AS FILE NO. 178108 SERIES 8 BOOK 1967 OF OFFICIAL RECORDS AND RELINQUISHED TO THE CITY OF SAN DIEGO PER DOCUMENT RECORDED JULY 27, 1972 AS FILE NO. 195261 BOOK 1972 OF OFFICIAL RECORD. VACATED.

PARCEL 'B'

GENERAL UTILITY AND ACCESS EASEMENT RESERVED OVER ALL THAT PORTION OF SAID SLOPE EASEMENT.

CONTAIN. APPROXIMATELY 5,913 SQUARE FEET MORE OR LESS.



MACARIO PEREZ, PE
RCE 20604



3/14/2008

DATE

J.O. 426706
P.T.S. 108435
DWG: 20833-B

000394

1" = 60'

N

LOT 1
MAP NO. 10042

LOT 2
MAP NO. 9266

LOT 3
MAP NO. 9266

LOT 4
MAP NO. 9266

LINDA VISTA ROAD

MESA COLLEGE DRIVE

PORTION OF LINDA VISTA ROAD DEDICATED PER DEED
RECORDED OCT. 7, 1967 AS F/P 160782 O.R.

PORTION OF LINDA VISTA ROAD DEDICATED
PER DEED RECORDED JULY 27, 1972 AS
F/P 195261 BOOK 195261 O.R.

3' UTILITY EASEMENT
GRANTED TO PACIFIC
TEL. & TEL. PER DOCUMENT
NO. 73934 RECORDED
MARCH 28, 1972 O.R.

5' UTILITY EASEMENT GRANTED
TO PACIFIC TEL. & TEL. PER DOCUMENT
RECORDED APRIL 1, 1953 AS
BOOK 4805, PG. 61 O.R.

HIGHWAY 163

PORTION OF LINDA VISTA ROAD DEDICATED PER DEED
AS F/P: (SEE DWG 20834-8)

DEDICATED PER DEED RECORDED NOV. 13, 1967
AS FILE NO. 178108 SERIES 8 BOOK 1967 O.R.

LEGEND:

EXISTING BOUNDARY
EXISTING EASEMENT
INDICATES ACCESS RIGHTS RELINQUISHED AND WAIVED PER DOCUMENT
RECORDED NOV. 13, 1967 FILE NO. 178108 SERIES 8 BOOK 1967 O.R.

(A) INDICATES SLOPE EASEMENT GRANTED TO THE STATE OF CALIFORNIA PER DEED
RECORDED NOV. 13, 1967 AS FILE NO. 178108 SERIES 8 BOOK 1967 O.R. AND
RELINQUISHED TO THE CITY OF SAN DIEGO PER DOC. REC. JULY 27, 1972 AS FILE NO.
195261 O.R.

(A) PORTION LINDA VISTA ROAD DEDICATED PER DEED
RECORDED AUGUST 24, 1917, BK. 735, PG. 444 O.R.

PARCEL "A" INDICATES PORTION OF SLOPE EASEMENT GRANTED TO STATE OF
CALIFORNIA PER DEED RECORDED NOV. 13, 1967 AS FILE NO.
178108 SERIES 8 BOOK 1967 O.R. AND RELINQUISHED TO THE CITY
OF SAN DIEGO PER DOC. REC. JULY 27, 1972 AS FILE NO. 195261
O.R. - VACATED (AREA= 5,913 SQUARE FEET MORE OR LESS)

PARCEL "B" INDICATES GENERAL UTILITY AND ACCESS EASEMENT RESERVED FROM
SLOPE EASEMENT VACATION

15938. BERNARDO CENTER DRIVE
SAN DIEGO CA 92127

DATE: 3/14/2008
MACARIO R. PEREZ RCE 20604

REGISTERED PROFESSIONAL ENGINEER
MACARIO R. PEREZ
No. C 20604
Exp. 8/30/08
CIVIL
STATE OF CALIFORNIA

SITE
VICINITY MAP
N.T.S.
APN: 427-082-02, 03
REFERENCE DRAWINGS
MAP NO. 6256 & MAP NO. 10042

**SLOPE EASEMENT - VACATION
IN LOT 3 OF MAP NO. 6266 WITH GENERAL UTILITY ACCESS EASEMENT
RESERVED FROM SLOPE EASEMENT VACATION**

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO	PTS NO.
ORIGINAL	J&B				SHEET 1 OF 1 SHEET	10843F
	PP2	RB	4-3-08		FOR CITY ENGINEER	J.O. NO. 426706
					DATE 7 APR '08	1872-6281
						CCS 83 COORDINATES
						232-1721
						LAMBERT COORDINATES
						20833-B

STATUS

000395

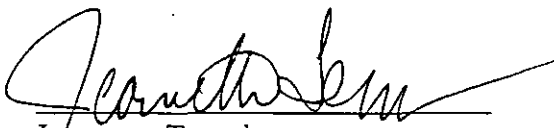
PLANNING COMMISSION RESOLUTION NO. 4402-PC
RECOMMENDING TO THE CITY COUNCIL CERTIFICATION OF MITIGATED
NEGATIVE DECLARATION NO. 108435; ADOPTION OF REZONE NO. 361571; AND
APPROVAL OF PLANNED DEVELOPMENT PERMIT NO. 532247 AND EASEMENT
VACATION NO. 532246

WHEREAS, on May 8, 2008, the Planning Commission of the City of San Diego held a public hearing for the purpose of considering and recommending to the Council of The City of San Diego Certification of Mitigated Negative Declaration No. 108435; Adoption of Rezone No. 361571; and Approval of Planned Development Permit No. 532247 And Easement Vacation No. 532246; and

WHEREAS, GTF Properties, a California Limited Partnership, Owner/Permittee, filed an application with the City of San Diego for a Planned Development Permit No. 108435 to construct an 8,046 square foot retail development on a 60,134 square foot site known as the Linda Vista Road Center project, located at 7625-7631 Linda Vista Road, and legally described as Lot 3, Artillery Square Unit No. 2, Map No. 6266, in the Linda Vista Community Plan area, in the CN-1-2 zone which is proposed to be rezoned to the CC-1-1 zone, and the Residential Tandem Parking Overlay zone; and

WHEREAS, the Planning Commission of the City of San Diego has considered all maps, exhibits, and written documents contained in the file for this project on record in the City of San Diego, and has considered the oral presentations given at the public hearing; NOW
THEREFORE,

BE IT RESOLVED, by the Planning Commission of the City of San Diego that it hereby recommends Certification of Mitigated Negative Declaration No. 108435; Adoption of Rezone No. 361571; and Approval of Planned Development Permit No. 532247 and Easement Vacation No. 532246, with the recommendation that the applicant make an effort to work with sustainable building and site techniques to enhance environmental performance and reduce the carbon footprint, and redesign site plan to have new structures closer to the street with additional parking at the rear.



Jeannette Temple
Development Project Manager
Development Services Department
Dated May 8, 2008
By a vote of 4-1-2

000396

NOTE: Planning Commission minutes for May 8, 2008 were not available at the time of assembly of these materials.